

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 08-60408

STEVEN STATEN, *pro se*,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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ORDER DENYING DEBTOR'S MOTION TO REOPEN BANKRUPTCY CASE

This case comes before the Court on Debtor's "Ex-Parte Application to Reopen Closed Case Under 11 U.S.C. Section [350(b)]," filed on April 8, 2009 (the "Motion," Docket # 22). The case was closed on January 7, 2009 without a discharge due to Debtor's failure to file a Financial Management Course Certificate. The Motion "seeks to reopen [the] case in order to file Official Form 23 and to move the court to enter a discharge under 11 U.S.C. Section 727."

The Court cannot grant the Motion and reopen this case, because Debtor is not eligible to be a debtor in this case under 11 U.S.C. § 109(h)(1). That section provides in relevant part, that

an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

The only certificate of credit counseling that Debtor filed with the Court states that Debtor received "an individual [or group] briefing that complied with the provisions of 11 U.S.C. §§ 109(h) and 111" on August 25, 2008. (*See* "Certificate of Counseling," filed on September 9, 2008 (Docket # 13). Debtor filed his voluntary petition for relief under Chapter 7 on August 22, 2008. Therefore, Debtor only received credit counseling *after* his petition was filed. With

exceptions not applicable here, 11 U.S.C. § 109(h)(1) requires a debtor to obtain credit counseling *before* filing a bankruptcy petition.

For this reason, no purpose would be served by reopening this bankruptcy case.

Accordingly,

IT IS ORDERED that Debtor's "Ex-Parte Application to Reopen Closed Case Under 11 U.S.C. Section [350(b)]" (Docket # 22), is DENIED.

This Order is without prejudice to, and does not bar, Debtor from filing a new bankruptcy case.

Signed on April 11, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge